

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.262 OF 2007

Sahebrao Tulsiram Pagare ...Applicant.

Versus

The State of Maharashtra ...Respondent.

.....
Mr.Babasaheb Ghorpade, Adv. i/b. Mr.P.D.Jadhav,
for the Applicant.
Mr.Rajesh More, APP, for the State.
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CORAM : SMT.V.K.TAHILRAMANI, J.

DATED : 16th April, 2007.

P.C.:

1. Heard the learned Advocate for the Applicant-orig.accused No.1 and the learned APP for the State.

2. The applicant-orig.accused No.1 is seeking bail in C.R.No.I-35 of 2006 of Satana Police Station, District - Nashik. The said case is under Sections 498-A, 304-B of IPC.

3. The applicant was the husband of deceased Ujwala. The marriage of the applicant and the deceased Ujwala took place on 9.5.2003. The

complainant who was brother of deceased Ujwala has stated that after the marriage the applicant and other accused were demanding the balance dowry amount of Rs.10,000/-. As the demand was not met, Ujwala was assaulted as well as she was thrown out of the matrimonial house with her minor daughter. The complainant and the witnesses have stated about Ujwala informing them about the demand and about ill-treatment to her as the demand was not met. On 26.2.2006 the body of Ujwala was found in the well. However, the cause of death is not due to drowning, but, it is on account of consuming a poisonous substance i.e. Pharsa. Near the well where body of Ujwala was found, the bottle containing Pharsa was also found. Thus, it is the prosecution case that on account of ill-treatment by the applicant as the demand of Rs.10,000/- was not met, Ujwala committed suicide.

4. Mr.Ghorpade, the learned Advocate for the applicant submitted that it is the case of the complainant that huge amount of money was spent at the time of marriage. In such case, it is not believable that the complainant could not pay Rs.10,000/- to the applicant as per the demand of

the applicant. It is seen that the complainant is working as constable with SRP. There is nothing on record to show that a huge amount was spent by the complainant on the marriage. Looking to the fact that the complainant is a constable, it does appear that it was not possible for him to pay an amount of Rs.10,000/- .

5. Thereafter, it was submitted that if Ujwala was constantly ill-treated, there would have been complaints earlier in point of time and the fact that there was no previous complaint shows that case of the complainant is false. As far as this aspect is concerned, it is well known that complaints involving husband and his relatives are not made by the wife or her relatives till the wife finds it absolutely impossible to carry on or in circumstances where the woman has already died on account of the harassment and the torture. Complaints are lodged only as a last resort and complaints are not generally lodged in respect of every incident of cruelty and ill-treatment. Thus, I find no merit in this submission.

6. Thereafter, it was submitted that no

letters or documents have been seized by the prosecution in support of the contention that demand was made by the applicant and as the demand was not met, Ujwala was ill-treated. As far as this aspect is concerned, it is seen that it is not the case of the prosecution that Ujwala left behind any suicide note. Moreover, it is not the prosecution case that Ujwala had written any letters to the complainant or any other witnesses stating about the demand or ill-treatment. Thus, because the prosecution has not seized any letters or any such documents regarding demand and the ill-treatment, it does not mean that the prosecution case is false.

7. Lastly, it is submitted that two witnesses including Nanaji stated that they heard sound of something dropping in the well and after search in the well, body of Ujwala was found. Mr.Ghorpade submitted that this shows that Ujwala accidentally fell into the well. As far as this aspect is concerned, it is seen that the death of Ujwala was not on account of drowning but it was on account of poisonous substance 'Pharsa'. Moreover, bottle of 'Pharsa' was also found near the well. Thus,

..(5)..

it cannot be said that it is a case of accidentally falling into the well and drowning. The material gathered by the prosecution shows clear involvement of the applicant. In this view of the matter, I am not inclined to grant bail to the applicant.

8. Application is rejected.

. Trial is expedited. In case the trial is not over by 31st August, 2007, liberty to the applicant to prefer fresh application for bail.

(SMT.V.K.TAHILRAMANI, J.)